

Division of Securities
Utah Department of Commerce
160 East 300 South
Box 146760
Salt Lake City, UT 84114-6760
Telephone: (801) 530-6600

**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

**IN THE MATTER OF THE LICENSE
OF :**

DAVID A. SETTLE, CRD #4245687

Respondent.

**STIPULATION AND CONSENT
ORDER**

Docket no. SD-05-0066

The Utah Division of Securities ("Division"), by and through its Director of Licensing, George Robison, and David A. Settle ("Respondent") hereby stipulate and agree as follows:

1. Respondent is the subject of an investigation conducted by the Division into allegations that Respondent violated the Utah Uniform Securities Act ("Act"), Utah Code Ann. § 61-1-1, *et seq.*
2. On October 3, 2005, the Division filed a Petition to Bar Licensee against Respondent.
3. In lieu of proceeding with the formal action, Respondent and the Division have agreed to settle this matter by way of this Stipulation and Consent Order

("Order"). If entered, the Order will fully resolve all claims the Division has against Respondent pertaining to this matter.

4. Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action.
5. Respondent waives any right to a hearing to challenge the Division's evidence and present evidence on Respondent's behalf.
6. Respondent has read the Order, understands its contents and submits to this Order voluntarily. No promises or threats have been made by the Division, nor by any representative of the Division, to induce Respondent to enter into this Order, other than as described in this Order.
7. Respondent has been advised of his right to be represented by counsel and has chosen to represent himself.

I. FINDINGS BY THE DIVISION

8. The Division's investigation into this matter revealed:
 - a. Respondent was licensed as a broker-dealer agent in the State of Utah with Ameriprise Financial Services, Inc. from September 5, 2000 to October 16, 2000 and with Waddell & Reed, Inc. ("Waddell & Reed") from November 15, 2000 until his license was terminated on October 4, 2004. Respondent was also licensed as an investment adviser representative with Waddell & Reed from December 8, 2000 until his license was terminated on October 4, 2004.
 - b. Respondent currently resides in Nephi, Utah.

- c. Respondent has taken and passed the Series 7, General Representative Licensing Examination and the Series 66, Combined State Law Examination.
- d. On September 8, 2004, Waddell & Reed discharged Respondent for making unauthorized redemptions from two clients' mutual fund accounts. Respondent admitted making the unauthorized redemptions.
- e. An amendment to the termination notice filed by Waddell & Reed (Form U5) and contained in Respondent's Central Registration Depository ("CRD") record also states, "on March 16, 2005, the firm became aware that [Respondent] admitted to making an unauthorized withdrawal from a client's variable annuity policy."
- f. On September 8, 2004, Respondent signed a letter admitting to forging withdrawals on two clients' accounts ("Client #1" and "Client #2") and having the checks sent to addresses other than those of the clients, so Respondent would receive the redemption checks.
- g. Waddell & Reed's 'Distribution/Withdrawal' forms and account descriptions for Client #1's account show that approximately \$58,000 was withdrawn from her account in periodic redemptions between June 21, 2001 and May 22, 2002. The 'Distribution/Withdrawal' forms further evidence the redemption checks were sent to and made payable to Respondent.

- h. Waddell & Reed's 'Account Service Request' forms show that in February 2003, four unauthorized redemptions from Client #2's accounts, totaling \$30,603.82, were made payable to and sent to Respondent's wife.
- i. On June 13, 2005, Respondent entered into an Acceptance, Waiver and Consent ("AWC") with the NASD without admitting or denying allegations that Respondent had violated NASD Conduct Rules 2110 and 2330. Pursuant to the AWC, Respondent consented to the entry of the following findings:

Between June 1, 2001 and May 31, 2002, Respondent obtained approximately \$58,000.00 from the securities account of MS [Client #1] by causing unauthorized withdrawals from the account and used the funds for his personal benefit. On two occasions in February 2003, Respondent obtained a total of approximately \$30,000.00 from the securities accounts of DS and JS [Client #2] by causing unauthorized withdrawals from the accounts and used the funds for his personal benefit. These acts constituted the improper use of customer funds. Each instance of an unauthorized withdrawal and the personal use of the withdrawn funds constituted a separate and distinct violation of NASD Conduct Rule 2330. Further, each such instance constituted conduct inconsistent with high standards of commercial honor and just and equitable principles of trade and a separate and distinct violation of NASD Conduct Rule 2110 by Respondent.
- j. Pursuant to the AWC, Respondent also consented to a bar from association with any NASD member firm in any capacity.

II. ADMISSIONS BY RESPONDENT

- 9. Respondent admits the Division's findings and to the violations of the Act described below.

III. CONCLUSIONS OF LAW

10. Respondent willfully violated Section 61-1-1(3) of the Act by making unauthorized withdrawals from client accounts and using funds for his own purposes, which operated as fraud or deceit upon his clients.
11. Respondent's willful violations of NASD Conduct Rules 2110 and 2330 constitute dishonest and unethical business practices under Rule 164-6-1g(C)(28) of the Utah Administrative Code ("UAC"), applicable to agents through (D)(7), which are grounds for imposing a bar under Section 61-1-6(2)(g) of the Act.
12. Respondent's actions constitute fraudulent acts under Rule R164-1-3(C)(1)(i), which are willful violations of the Act and grounds for imposing a bar under Section 61-1-6(2)(b).

IV. REMEDIAL ACTION/SANCTIONS


13. Respondent is fined \$50,000. Respondent has agreed to provide restitution to the victims and has submitted proof to the Division that he has entered into a promissory note agreement with Waddell & Reed to pay them for restitution payments that they made to Clients #1 and #2 on his behalf. As part of the promissory note agreement, Respondent made an initial payment of \$15,000 to Waddell & Reed and agrees to make payments of \$1500 a month for 35 months to pay the balance. Respondent shall receive a dollar-for-dollar credit against the fine for restitution monies paid pursuant to his agreement with Waddell & Reed.
14. Respondent agrees to be barred from associating with any broker-dealer or investment adviser licensed in this state.

V. FINAL RESOLUTION AND RELEASE

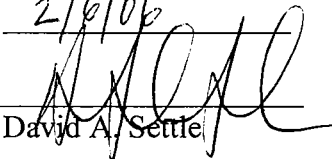
15. Respondent acknowledges that this Stipulation and Consent Order, upon approval by the Division Director, shall be the final compromise and settlement of this matter. Respondent further acknowledges that if the Division Director does not accept the terms of the Order, it shall be deemed null and void and without any force or effect whatsoever.
16. Respondent acknowledges that the Order does not affect any civil or arbitration causes of action that third-parties may have against Respondent arising in whole or in part from Respondent's actions and that the Order does not affect any criminal cause of action that a prosecutor might bring.
17. This Stipulation constitutes the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect this Stipulation in any way.

Utah Division of Securities

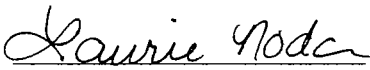
Date: 2/10/2006

By: 
George Robison
Director of Licensing

Date: 2/6/06

By: 
David A. Settle

Approved:

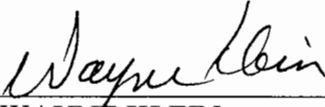

Laurie L. Noda
Assistant Attorney General
Division Investigator: A.K.

ORDER

Based on the foregoing, the Director hereby:

1. Enters, as its own findings, the Findings of Fact described in Section I, above.
2. Enters, as its own conclusions, the Conclusions of Law described in Section III, above.
3. Orders that:
 - a. Respondent pay a fine to the Division in the amount of \$50,000.
 - b. Respondent shall receive a dollar-for-dollar credit against the fine for restitution monies paid pursuant to his agreement with Waddell & Reed, described in paragraph 13 above.
 - c. Respondent is barred from associating with any broker-dealer or investment adviser licensed in this state.

DATED this 10th day of February, 2006.



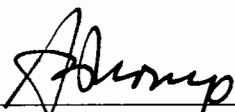
WAYNE KLEIN
Director, Utah Division of Securities



BY THE UTAH SECURITIES ADVISORY BOARD:

The foregoing Stipulation and Consent Order is hereby accepted, confirmed and approved by the Utah Securities Advisory Board.


DATED this 13th day of February, 2006.



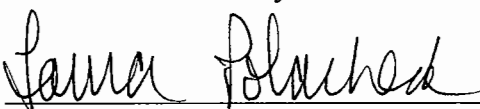
A. Robert Thorup, Chairman



John R. Jackson



Edward L. McCartney



Laura Polacheck

CERTIFICATE OF MAILING

I hereby certify that on the 24th day of February 2006, I mailed, regular mail, a copy of the foregoing **Stipulation and Consent Order** to:

David A Settle
784 East 500 North
Nephi UT 84604



Executive Secretary